

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO

March 13, 2007

Meeting

Chairman Michael McFarland called this meeting of the Tipp City Planning Board to order at 7:30 p.m.

Roll Call

Roll call showed the following Board members present: Mike McFarland, Bryan Blake, John Berbach, Robert Horrocks, and Mark Springer.

Others in attendance: Assistant City Manager Brad Vath and Board Secretary Marilyn Fennell. Those signing the guest register included: Carl Owen, Eric Eidemiller, David Burig, Robb Beckstedt, Gearied F. Hitchcock, Jr., Jules Asher, Joe Gabi, Colleen & Elden Eidemiller, Sue Amlin, Joe Eidemiller, Linda Eidemiller, David Dodd, Kathy Davidson, Richard Mosier, Council member Tim Evans, Paul Ernst, Brad Warkentine, Bill Bradley, Roy and Marilyn Roller, Tim Logan, Charles Smith, Deb Billheimer, Jack Berry, and John Canzonere.

Approval of Minutes February 15, 2007 Meeting

Mr. McFarland said there needed to be an "a" inserted in the 4th paragraph, Page 1, in the last sentence before "majority". Mr. Berbach **moved to approve the minutes of the February 15, 2007 meeting as corrected.** Mr. Blake seconded the motion. Motion carried 3-0-2. Ayes: Berbach, Blake and McFarland. Abstained: Mr. Springer and Mr. Horrocks.

Items not on the Agenda

There were no comments on items not on the agenda.

NEW BUSINESS Deadline Dates

Chairman McFarland announced that the next regularly scheduled Planning Board meeting would be held Tuesday, April 10, 2007. Preliminary Plans, Final Plats and Site Plans must be submitted by 5:00 p.m. on March 19, 2007 and temporary sign requests for display over 30 days must be submitted by 5:00 p.m. on April 4, 2007.

Swearing-in

Mr. Vath swore in those parties wishing to testify during the scheduled public hearings.

Ace Hardware, 910 W. Main St., IL 2024- Temporary Use for Seasonal Sales

Mr. Vath stated Ace Hardware, (Planned Commercial zoning) was making its annual request to display 1-2 pallets of seasonal sales merchandise in front of the store. The display will be outside during business hours and will be taken in at night. Similar requests have been before the Board in the last few years. Staff recommended approval with the following conditions:

- 1) The pallets shall be displayed according to the approved site plan provided by the applicant.
- 2) The seasonal merchandise shall not be displayed for more than 100 days; or
- 3) The applicant shall seek Planning Board approval for any outdoor display of seasonal merchandise beyond June 21, 2007.

Mr. McFarland said he knew of no problems or complaints with past requests. Mr. McFarland then **moved to approve the temporary**

Fieldstone Place, 105,
125, 125, & 175
Evanston Road, Pt IL
3601- Pre-Application
Sketch/Set Public
Hearing Date

use permit for Ace Hardware with the conditions listed in the staff report. Mr. Blake seconded the motion. Motion passed 5-0.

Mr. Vath this was a request from Rick Mosier and David Dodd doing business as the Tipp City Land Company LLC, for approval of a pre-application sketch under the Planned Residential code §154.056(D)(1) and §155.021. The property was rezoned December 15, 2004 from Conservation District to Planned Residential by Ordinance 57-04. There was a provision in the ordinance mandating that no plat planning nor shall development commence within the first 26 months after the effective date of the Ordinance. That provision expired on February 15, 2007. Mr. Vath continued that per Code § 154.056(D)(1) and §155.021 states the Planning Board should review the Pre-Application Sketch. Items to be reviewed include, 1) the proposed subdivision in relation to existing community facilities, thoroughfares, and other transportation modes, shopping centers, manufacturing establishments, and residential developments, 2) all existing structures, wooded areas, streams, and other significant physical features within the portion to be subdivided and within 200 feet thereof and also the topographical conditions, 3) the names, addresses and phone number of the owner, developer, and engineer as well as names of all adjoining property owners as disclosed by the most recent municipal tax records, 4) the scale and title of the subdivision, a north arrow and the date, 5) all existing restrictions on the use of the land including easements, covenants, and zoning districts, and 6) the location of utilities serving the proposed subdivision or the locations of the nearest sources for water and public facilities for the disposal of sewage and storm water. Those items have all been shown on the Concept Sketch. The Water will connect to the existing 12" water main located at intersection of Coach Drive and CR 25A and extend it to the intersection of CR25A and Evanston Road. The storm sewer will discharge storm water to an existing watercourse east of CR25A via 1200' of 24" storm sewer. The sanitary sewer line will be installed to the new line existing 680' east of the intersection of Evanston Road and CR25A. The electric will be serviced by Tipp City Electric via existing transmission mains along CR 25A and Evanston Road. The gas will be installed to an existing gas line located at the intersection of Michaels Road and CR 25A.

Mr. Vath said the new updated Thoroughfare Plan requires that Evanston Road incorporate a 70' right-of-way and Country Road 25A incorporate a 100' right-of-way. Therefore there those two roads will need to be widened and sidewalk, curb and pavement installed from curb back to curb back and storm drainage.

Mr. Vath said staff recommends approval of the Pre-Application Sketch as submitted. If the Planning Board approves the sketch the applicant will seek approval of the Preliminary Plan. The Board should then set a Public Hearing for the April 10, 2007 meeting to consider the Preliminary Plan for this subdivision.

Mr. David Dodd, 2006 Harshbarger Road, Covington, one of the partners of Tipp City Land Co. LLC approached the podium to answer questions. Mr. Springer asked for an overview on the different phases. Mr. Dodd said the first phase was the Assisted Living Center- those needing daily assistance; the second phase was the Congregate Living apartments – those might need services but each unit has a kitchen; the

4-unit Villas and Duplexes are for those more active, those that might still drive but wish to live within a community of other seniors. The Town Square would be available to all, beauty shop, ice cream shop, etc.

Mr. Springer asked Mr. Vath if businesses are permitted within a PR. Mr. Vath said there is a maximum percentage allowed based upon the area of the subdivision and the initial look appears that this would comply with code. Mr. McFarland asked if the shops would be available to the residents of the development only. Mr. Dodd said that was correct. He said there might also be a physical therapist office. Mr. Berbach asked about the timing of the phases. Mr. Dodd said the first phase would be the assisted living building and possibly the Memory Care building and maybe some of the villas. The total build-out would be 8-10 years, maybe around 2015.

Mr. McFarland asked about the improvements for the roadways and when that would take place. Mr. Vath said that will come into the discussion further into the process. He said if the Villas are started then there may need to be those improvements immediately on Evanston Road. That will be discussed at the Preliminary Plan stage.

Mr. Blake asked if they had a company to operate the living centers. Mr. Dodd said they have contracted with a company to build the building, one to manage the building, the entity Fieldstone Place LLC will own and operate the business.

Mr. Springer asked if the villas and duplexes will be deeded properties. Mr. Dodd said they could be both, maybe as a condo type or rental units. The exteriors will be owned by the company. Mr. Vath said they are looking at three lots for the whole subdivision vs. individual lots. Mr. Blake asked how many living units were included. Mr. Dodd said there were to be 60 Assisted Living units, 24 Memory Care, 138 Congregate Living, and 72 individual units (villas and duplexes) for a total of 297 living units.

Mr. Springer asked if Evanston Road would be widened from just east of Shane Court. Mr. Vath said that was correct. Mr. Springer asked if fire trucks or moving vans can move in around the inside the subdivision. Mr. Vath said that is something that has been conceptually looked at but it does need to be looked at for final design. The internal driveways will be privately maintained but some of the utilities will be serviced by the City in dedicated easements.

Mr. McFarland complimented Mr. Dodd on the completeness of the Pre-Application Sketch. Mr. Berbach said there needs to be "senior living" facilities in Tipp City. Mr. Springer asked if there was enough water pressure for this subdivision. Mr. Vath said there is the new 24" NAWA water main to Vandalia and a 12" main to the north that will provide adequate water to this complex. Mr. McFarland asked if there were any comments from the nearby church. Mr. Vath said not at this time. Mr. Springer asked about the soil types listed on page C-4. Mr. Vath said there will be four storm detentions on the property and they will need to detain the water at the appropriate rate. The build-ability of the soils will need to be looked at by the developers.

Mr. Blake moved to approve the pre-application sketch for

Berry-Logan
Properties, Donn
Davis Way, Pt IL 3737-
Zoning Map
Amendment I-1 to HS

the proposed Fieldstone Place, ± 44.58 acres at 105, 125, 155, & 175 Evanston Road as presented. Mr. Springer seconded the motion. Motion passed 5-0.

Mr. Berbach **moved to set a public hearing for the Preliminary Plan for Fieldstone Place for April 10, 2007.** Mr. Horrocks seconded the motion. Motion carried 5-0.

The next item of business was a Public Hearing for Berry-Logan Properties, LLC, Pt. IL 3737, ± 11.274 acres, NW corner of Donn Davis Way & E. Kessler-Cowlesville Rd- Zoning Map Amendment from I-1 to HS. Mr. McFarland **moved to open the public hearing.** Mr. Blake seconded the motion. Motion carried 5-0.

Mr. Vath gave a brief history of the property. The parcel was annexed into the city in 1991 with a total of 142.701 acres. On November 6, 1991 it rezoned from Miami County B-1, B-3 and I-1 (Business and Light Industrial) zoning to Tipp City zoning of I-1 (Light Industrial). Subsequently there have been rezoning: December 1993- 52.108 acres I-1 to HS (Highway Service), January 2001- 36.782 acres from I-1 to OS (Office Service), and July 2004- 21.947 acres I-1 to HS (Highway Service). The Comprehensive Master Development Plan (CMDP) shows the future uses on Map #14, in Planning Area #3. That planning area indicates that Highway Business designation along County Road 25A reflects existing uses, additional commercial uses fronting this thoroughfare are appropriate. Light industrial uses along Donn Davis Way are reflected by the Industrial/Office Park designation on the map.

Mr. Vath continued that the surrounding zoning is HS to the North and A-2 (County zoning), South- A-1 (County) & CD (Leshar Woods), East- I-1, and West- HS.

To summarize the report, Mr. Vath said the original tract of land (142.701 acres) where the parcel in question is located was originally zoned Light Industrial (I-1). Since 1991, 110.837 acres have been rezoned either HS or OS leaving 32 acres as I-1. The CMDP recommends I-1 for all the properties along Donn Davis Way. If the rezoning is approved it would unify all of the Berry-Logan property on the west side of Donn Davis Way as a Highway Service zoning designation. There are 3 parcels on the east side of Donn Davis Way that would remain Light Industrial. Mr. Vath referred the Board to Attachment B in the packets for a drawing of the area.

Mr. Vath asked that those that come up to the podium, they should state their names and indicate if they have been sworn in.

Mr. Tim Logan, President of Berry Logan Properties LLC, said since the construction of Donn Davis Way it has become clearer that there needed to be some things looked at in more detail. In working with some potential clients and also City staff, the 11 acres is more likely to be suited for Highway Service use rather than the Light Industrial. The drainage pattern for the property and access to the property is better served by HS zoning.

Mr. McFarland asked if there was to be an access route built if

someone wants out by the Interstate or was there may be an auto dealership looking at the large parcel that would have frontage on both roads. Mr. Logan said Mr. McFarland might be looking a bit far out. Mr. Logan envisioned a shopping center being the primary development in this area. One of the problems that they did not understand until Donn Davis Way was put in was the curvature of the road, which was dictated by the existing sanitary sewer that went thru the property.

Mr. Springer asked about Inlots 3738, 3739, and 3740 remaining Light Industrial. Mr. Logan said he did not envision those being Highway Service at the present time. They act as a nice buffer to the school. He thought office use would be a better use there.

Mr. Blake said the other lots were rezoned going against the CMDP. Mr. Vath said that was correct. In 2003 Tipp City adopted the current Comprehensive Master Development Plan so the last rezoning took place after that new Plan was adopted. Mr. McFarland said there is some precedence there for not following the Plan.

Mr. Berbach **moved to close the public hearing.** Mr. Springer seconded the motion. The motion passed 5-0. Mr. McFarland asked for any further Board member comments. He added that there is a precedent going against the CMDP. Mr. Springer said that in the Planning Area 3, one of the bullets states "that the Highway Business designation along County Road 25A reflects existing uses." He said that area has been recognized for that use and it reflects the spirit of what was there so Highway Service would not necessarily be going against the Plan.

Mr. McFarland **moved to recommend to City Council a zoning map amendment for Pt. Inlot 3737, ± 11.274 acres, NW corner of Donn Davis Way and E. Kessler-Cowlesville Road, from I-1 (Light Industrial) to HS (Highway Service).** Mr. Springer seconded the motion. Motion passed 5-0.

US Bank NA, Trustee
for S. Joe Eidemiller,
610 W. Kessler-
Cowlesville Rd, Pt IL
2392- Zoning Map
Amendment I-1/POI to
PC & PR

The next item of business was the public hearing for US. Bank NA, Trustee for Sidney Joe Eidemiller, 610 W. Kessler-Cowlesville Rd, Pt IL 2392, ±75.565 acres for Zoning Map Amendment from I-1/POI to PC and PR. Mr. McFarland **moved to open the public hearing.** Mr. Berbach seconded the motion. Motion carried 5-0.

Mr. Vath stated the applicant is seeking a zoning map amendment for the parcel located at 610 Kessler-Cowlesville. This parcel is 75.565 acres located north of Kerr Road, east of Peters Road, south of Kessler-Cowlesville Rd., and immediately west of the Meijer Distribution facility. He continued that Planned Commercial is being requested for 33.532 acres and Planned Residential is being requested for 42.033 acres.

He then gave some history of the property. On June 19, 1989, (Ordinance 30-89), the parcel in question was annexed into the City in conjunction with another parcel totaling 203.815 acres. On December 14, 1989 (Ordinance 57-89) rezoned the property from A1 (General Agriculture- Miami County) to I-1/PID Light Industrial/Planned Industrial District Overlay. On August 16, 1993 the zoning was changed to I-1/POI (a comprehensive revision to the Tipp City Code). On July 11, 2006 the

Planning Board held a Public Hearing regarding a rezoning request to rezone the entire parcel PR (Planned Residential). The Planning Board forwarded a negative recommendation to City Council. The applicant withdrew the rezoning request prior to any action by City Council.

Mr. Vath said the CMDP indicates the proposed area under consideration lies within Planning Area #15. The planning area is zoned industrial but Kessler-Cowlesville Road is not a designated truck route and has existing residential uses along the north side. The Plan stated, "Other uses more appropriate to the roadway function and adjacent land use, such as a retirement community. To reflect this, "Professional Office/Service" has been designated in the northwest corner of the planning area." Mr. Vath said another major point from the CMDP is that "a north-south collector street with a bike path element is also proposed in this planning area." This road would go south from Kessler-Cowlesville Road to Kerr Road.

In discussion on the Planned Residential rezoning portion, the CMDP states that approximately 80% of Planning Area 15 is noted as Industrial/Office Park. Neither of these designations delineates a residential use as proposed by the applicant. In the CMDP a fragmented sentence mentioned above refers to a "retirement community" and a retirement community is not defined in the CMDP or in the code. Staff did not believe the fragmented sentence endorses or excludes a retirement community in this Planning Area. Nursing homes are a special use within the Office Service Zoning District.

Mr. Vath stated that there are 177 existing residentially zoned lots remaining as of February 14, 2007. This equates to a 3+ year supply assuming the average of 50 lots per year. There is also 174 acres which could equate to 350+ units if development occurred on those lots.

Regarding the rezoning to the Commercial use, Planned Commercial. The current POI zoning allows principal permitted uses noted in I-1 and OS zoning districts.

The adjacent properties are zoned as follows:

North- R-1C Urban Residential (Windmere Subdivision)

South- A-2 Agricultural (Miami Co.)

East- A-2 Agricultural (Miami Co.)

West- I-1/POI- Light Industrial/Planned Office Industrial (Meijer)

Mr. Vath said there were some additional considerations. The I-1/POI presents a problematic situation regarding potential truck traffic on Kessler-Cowlesville Rd. When the Preliminary Plat for the Meijer facility was approved, City Council specifically noted in the ordinance that no semi tractors with or without trailers, other than emergency vehicles shall access or depart the property via Kessler-Cowlesville Rd. This ordinance has no legal jurisdiction on the applicant's property; however it does indicate a policy preference towards this road in prohibiting truck traffic.

Mr. Vath said that the proposed zoning districts PC on the eastern half and PR on the western half provides a natural step down from the industrially zoned property to the east, Meijer. The Planned

Commercial is a preferred “buffer” between the industrially zoned property and residentially zoned property.

The applicant and their agent have indicated a need for “retirement housing”. There has been a hypothetical scenario presented for the development of ranch-style condominiums catering to the empty-nester market. Staff noted that the rezoning of the property should be considered on its own merits with the applicant under no requirement whatsoever to provide such a housing product.

Mr. Vath said the Thoroughfare Plan has shown a 60’ right-of-way north/south roadway as shown on Attachment “D”.

Mr. Vath summarized:

- 1) The proposed rezoning to PR is counter to the Comprehensive Master Development Plan regarding land development with this area being recommended for Industrial/Office Park and to a lesser degree Professional Office Service.
- 2) There is currently a 3-year supply of platted residential lots within Tipp City. The rezoning of any portion of this property to PR would add to this inventory.
- 3) The proposed rezoning of the property to PC-Planned Commercial is somewhat compatible with the recommendations of the CMPD being light industrial and office service.
- 4) The existing industrial zoning designation of the property in question is hindered by the City’s prior policy decisions to limit truck traffic on Kessler-Cowlesville Road.
- 5) The proposed rezoning provides a realistic step-down from the existing industrially zoned property to the east (Meijer) and the proposed PR-Planned residential property.
- 6) The ideal development of this acreage should be developed as one “planned” project and not bifurcated into residential and commercial parts.

Mr. Vath recommended that the Planning Board’s motions should clearly indicate the rezoning from I-1/POI to PR and to PC in its recommendation to City Council.

Mr. McFarland asked for comments from the audience. Mr. David Burig, HD Living Enterprises said the reason for the industrial zoning in talking with Mr. Eidemiller, there was a possibility of Meijer expanding at sometime in the future. Mr. Eidemiller told him that instead of waiting for the rezoning process if and when that happened; they decided to zone it as industrial at the time Meijer was first developed. Mr. Burig said Mr. Vath made a good point with the step-down zoning of the commercial to the residential. He said some of the things envisioned in the commercial area would be, medical facility, professional offices, research and development facilities, instructional studios (dance, gymnastics, etc.), possibly even a church. The product developing is for baby-boomers and empty-nesters. He said there are 27,000 persons estimated between the ages of 55-74 within a 10-mile radius. Further evidence of the need for the product proposed is Springmeade Health Center has their independent residences; they are sold out with a waiting list. He added they think this type of housing is not competing with the existing single-family lot inventory. The community is geared for

the active adult segment of the population. It would have a low impact on the community with further occupants per dwelling unit, fewer vehicle trips, and a positive impact on the schools due to the fact that the occupants would not have children attending the schools.

Mr. David Dodd came forward; he wished to clarify his plans for Fieldstone on their 44 acres. The 72 units planned would have villas and cottages similar to Springmeade. The market study they had done showed there is a need for them and their project would cover that need with the units planned. He suggested that a moratorium be placed on this rezoning.

Mr. Paul Ernst, 700 Pinehurst Drive, said he did not wish to stop the development as the owners have the right to develop the property. He said he bought his property knowing that someday that at some point the farm would be developed. He told the Eidemillers that he will miss seeing the crops being farmed. His complaint is with the Planned Commercial. He said he would have no complaint with the entire area developed residential. He was concerned what might be built in the commercial zoning section. He said he was shown some pictures but they were just pictures. He would like to see it all Planned Residential with finished drawings, how many units are being put in, average selling costs per each unit, etc. He asked where HD Living Enterprises has built before, where could he go and see what has been built. The lighting in Commercial areas also concerns him. Mr. Ernst asked if Mr. Beagle was still in office. Mr. Vath said this was Planning Board and Mr. Beagle was not a member of this Board. Mr. Ernst said he had addressed an e-mail to Mr. Beagle regarding this matter and had no reply. Mr. Vath said if Mr. Ernst had questions, he could address them to staff and there would be a response. He said he had concerns about traffic, the ammonia stored at Meijer (possible disaster), and could the City evacuate people with the number of personnel that it has.

John Canozere, 725 Pinehurst, said he has looked at the residential aspect of the project. He was concerned about putting people that close to the Meijer Distribution Center. He knows he is close. They have ammonia stored there could be a problem. He said Meijer is under an RMP program now, even under the alternate case scenario, for a problem would put everyone in that district in risk of the ammonia. It is 0.2 miles under the alternate, under a worst case scenario it is 2.6 miles, putting seniors in that area with a risk for respiratory problems and the response time for the fire department from all the way downtown, thru a train into that area could be difficult. He agreed with Mr. Ernst's points on the Planned Commercial. He also questioned the need for more residential homes.

Mr. Vath wished to clarify on the Fire and EMS response would be from the Westside Fire Station which is on the west side of the railroad tracks so there should not be a problem with response due to the train. The majority of the responders live west of the train tracks.

Mr. Jules Asher, 760 Pinehurst Drive, said he has no issues with the development with the residential, but he did oppose the commercial portion of it.

Mr. Burig said he wished to address the ammonia issue. He did

obtain a report from Meijer and their safety standards that have been implemented at the site. The redundant safety measures they have in place, he thought were amazing. He also understood that it is anhydrous ammonia, the same substance put on fields by farmers. He wanted all to know that he had done research on that issue and ask if City staff had any further comment on that issue. Mr. Vath said that is an issue that the Fire Dept. has to deal with and there are reports/plans that Fire Chief Kessler has to deal with on an annual basis. He said it is obvious that Meijer is meeting all requirements or they would not be in operation. Mr. Canozere said there are 54,000 lbs. of anhydrous ammonia and that substance is unlike that is put on farmer's fields by direct ground injection. He continued that a catastrophic release as issued on Meijer's RMP (Risk Management Plan), states that amount kills within 2.6 miles, 200 parts per million of ammonia at that point of time. He did not believe that the farmer injecting it into the ground gives that amount.

Mr. McFarland asked for further comments. There were none. Mr. Horrocks **moved to close the public hearing**. Mr. Blake seconded the motion. Mr. McFarland asked for further comments from the Board.

Mr. Springer asked about Ordinance 19-92 regarding the no semi-trucks on Kessler-Cowlesville Rd. Mr. Springer said this piece of land is zoned Industrial and if no trucks are allowed on the road, then the land is land-locked. Mr. Vath said that Ordinance related to the Meijer facility only, all of their trucks enter from County Road 25-A. There is no police stationed there to monitor that but to his knowledge they have complied. There may be other trucks for other businesses that might drive down the road. The implications are as stated in the staff report is that a precedence was set by this 1992 ordinance for no truck traffic on Kessler-Cowlesville Road for the Meijer project. Mr. Springer said the types of businesses permitted right now, it includes almost any type of manufacturing facility, distribution facility and the truck issues is a "please don't do it but you can." Mr. Vath said he was correct that it is currently zoned to include the uses: a distribution center or Light Industrial use through the appropriate process. Mr. Springer said a large terminal could be put on those 75 acres. Mr. Vath said there the truck traffic on Kessler-Cowlesville would be something wrestled over. Mr. McFarland asked if it was zoned that way in anticipation of a Meijer expansion.

Elden Eidemiller said when Meijer developed there was talk that they would eventually need more room for truck parking accessing through their current property. At that time, Mr. Greg Horn, the City Manager, it would be best to rezone the property industrial, as it would be easier to back off the zoning to another use. That is the reason for the current Light Industrial zoning designation.

Mr. Springer said the Planned Residential is a lesser impact on the property with the permitted uses. Mr. Vath said the truck traffic would be less also with the Planned Commercial. Mr. Springer added that the zoning runs with the land. A month from now or later that a 400-home development could be proposed for this site and not this nice empty-nester community. There is no way to tie zoning to a particular type of development. Mr. Vath thought some assurances could be placed by the owner by deed restrictions that the property would only be

developed as an empty-nester development. He said he was not an attorney but he thought the private owner could do that if they are willing to. There is also further oversight by the Planning Board on any Planned Development proposed. Mr. Springer said it could still be a larger residential project. Mr. Vath said as long as the density, setbacks, etc. meet code, that was correct.

Mr. Burig said his background is with a company that has built about 200 of these types of communities across the country. He said he knew that this had no legal binding, bearing on this discussion, but he was here because he saw this piece of land and thought it would be a great fit for what he knows.

Mr. McFarland said he would like to have the expertise of the Fire Chief in regards to the ammonia stored at Meijer and the impact if the land was rezoned. He would like further clarification on the matter. Mr. Vath said that information could be provided at the next meeting. Mr. Blake said if the parcel was rezoned residential, as part of the approval process for the development, would that come into play at that time. Mr. Springer said if it was not compatible to be residential perhaps it is better left industrially zoned.

Mr. Berbach said he was receptive to this land being developed but he did not feel comfortable making a decision tonight. He asked for a workshop. Mr. Springer said he agreed with that. Mr. Vath thought a study session could be held. He also reminded the Board that some of these issues were looked at when the Meijer facility was built. Due to the proximity of Woodlawn, then Windmere was added, and Springmeade was added immediately to the east which is the prevailing wind direction. Accidents can occur and that is why they have emergency and contingency plans.

Mr. Springer asked about the 30 acres being Planned Office rather than Planned Commercial. The uses include auto truck rentals, gas station, car wash, motel, restaurants, drive-in restaurants, bowling alleys, churches, auto dealerships, and drive-in theatres. Mr. Burig said drive-in theatres are prohibited. Mr. Springer apologized; he said he read down too far on the page. He thought the Planned Office would fit better. Mr. Burig said he thought the Planned Commercial encompassed the four other zoning designations worked better. He said a number of the businesses mentioned by Mr. Springer require bigger drive-by traffic and he just didn't see that occurring there. Mr. Springer did agree with that but he has seen people put some unusual things on parcels of property that you would never think that would be built. Mr. Burig said he thought in the Planned zoning designations, that the Planning Board has more control over what is built. Mr. Springer said they do but if it is within the permitted uses, then it might be built. Mr. Burig said he just saw a lesser obnoxious use being constructed there.

Mr. McFarland asked Mr. Burig about the map provided. He asked if the Commercial was looked at being on the east side of the proposed street rather than both. Mr. Burig said a lot of thought was given on that matter. He said 225' on both sides of the road was being considered for the Commercial. That is something to consider, bringing the residential over to the road on the west side. He pointed out the 5-acre piece that Meijer purchased a few years ago, that is where he

would like to see commercial on both sides of the road to about that point. That would be about 10 acres of commercial frontage along Kessler-Cowlesville Rd.

Mr. McFarland said he thought the consensus was to table the matter this evening and have a workshop before the next meeting. Mr. McFarland **moved to table the zoning map amendment recommendation for the Eidemiller property, ± 75.565 acres, Pt IL 2392 to the April 10, 2007 meeting.** The motion was seconded by Mr. Blake. Motion carried 5-0.

Mr. McFarland **moved to hold a workshop on April 10, 2007, 45 minutes before the 7:30pm meeting.** Mr. Blake seconded the motion. Motion carried 5-0. Mr. McFarland asked that parties involved be invited. Mr. Vath asked for clarification. It was suggested the Fire Chief and Council members. Mr. Vath said those persons can be invited along with the Police Chief and it will be on our general agenda. Mr. Springer asked the applicants to look at Planned Office Service designation. All the items mentioned by Mr. Burig fit in the Office Service.

Tipp City Church of the Nazarene, 1221 W. Main St., IL 2136-
Zoning Map
Amendment OS to HS

The next item of business was the public hearing for the Tipp City Church of the Nazarene, 1221 W. Main St., IL 2136, ±8.685 acres for a Zoning Map Amendment from OS to HS. Mr. McFarland **moved to open the public hearing.** Mr. Berbach seconded the motion. Motion carried 5-0.

Mr. Vath said the applicant is requesting a rezoning from Office Service to Highway Service. The Comprehensive Master Development Plan indicates the proposed area lies within Planning Area #23. Some key points from the CMDP:

1) There has been some piecemeal development. New commercial development is reflected near I-75 with the "Highway Business" designation.

2) The "Professional Office/Service" designation in the central and southwestern part of the planning area reflects the existing use pattern in the area, (this refers to this particular parcel in question and part of what is the potential Menard's parcel that was recently rezoned) and

3) A primary objective for this planning area is completion of the Kinna/Harmony road network to provide proper traffic circulation.

Mr. Vath said the CMDP recommends OS-Office Service for this parcel. There are some use considerations to look at for this parcel. There is a church and a daycare/preschool use currently. The existing OS zoning allows for the church use as a principal permitted use (Code §154.047(B)(1)(g), and the daycare/preschool use is a special use per Code §154.047(B)(2)(a). The existing OS designation is the ideal zoning for the property with both uses delineated as either a permitted or a listed special use. The proposed Highway Service zoning does allow the daycare/preschool as a permitted use (Code §154.050(B)(1)(o), but the church use is not allowed as a permitted use or a special use. The Planning Board can review the Church use as a special use under Code §154.050(B)(2)(d). If the property is rezoned HS, the applicant must seek review of the church use as a special use. Planning Board approval is not a guarantee that a special use would be granted. If the

Board would not approve the church use, there would need to be additional legal remedies to address the church use which does not comply with code.

Mr. Vath said to create such a nonconforming use is not good planning and zoning practices. Such a rezoning does not obligate the Planning Board to grant any necessary special use permit for such nonconformity.

Mr. Vath said the current zoning surrounding the property is as follows: North- HS (Don Wright property)

South- HS (Superwash & Valero)

East- HS (Wendy's, Arby's, Holiday Inn)

West- General Business & I-1 (Lee's Garage)

Mr. Vath summarized the staff report:

- 1) The parcel is currently zoned OS-Office Service.
- 2) The CMDP recommends OS for this parcel.
- 3) This parcel is surrounded on 3 sides by HS-Highway Service.
- 4) Versus the HS- the OS is better suited zoning district for the existing uses on this parcel with the church (permitted) and the daycare/preschool (a listed Special use).
- 5) If the property were rezoned HS, the applicant must subsequently seek Planning Board review of the church use as a Special Use. It is not guaranteed that the Planning Board would approve such a Special Use and if they would not, it creates a nonconforming situation.

Mrs. Sue Amlin came to the podium to answer questions. Mr. McFarland asked why the church was seeking this rezoning. She said the pastor and the Board of Directors asked her to do some work for the church to help them decide the best use of their land. Menards has brought to a head for them. They first thought they wanted a General Business designation in case the church decided to move and sell their land. In her research she found the Little Lighthouse Daycare and Community Bible Church is zoned General Business. She also met with Mr. Vath and Mr. Collinsworth regarding this request. Menards wishes to purchase part of the church's land. Once they start to parcel parts of their property, they do not want to be left with anything that puts the church as not "good stewards". They want to be able to make certain that what is left is something that is worth more money. She said she analyzed General Business, Highway Service and Office Service and showed the church board the different uses. The Planning Board has the right to grant a special use of a church in that zoning and the daycare would be a permitted use in the new zoning. She said the church is a permitted use in the OS zoning and there is a special use for the daycare, so it would be just a flip-flop of those. If granted the HS designation, they will immediately file for the Special Use permit. She said they would like to remain there as a church and a daycare until they decide to move.

Mr. Springer asked if there was to be a lot split to sell to Menards. Mrs. Amlin said yes but she was not sure how much. They did not want to define those lines at this time. She thinks HS is better as they are surrounded by HS. It does go against the CMDP but the Board did that with the Don Wright/Menards request recently.

Mr. Springer asked what Chase Bank was zoned. Mr. Vath said it was General Business. Mr. Vath added that at minimum, Menards needs to purchase enough right-of-way to put in Kinna Drive. He referred to Attachment "B", to the 52.24' section along Main Street and parallel to Paul Lee's property is where Kinna Drive would be located. He said beyond that he was not sure what negotiations the church has had with Menards. Mr. Springer said that for the development of Menards, Harmony Drive and Kinna Drive must be completed.

Mrs. Amlin said they first looked at General Business but she thought it would be best for the City for the land to be zoned Highway Service so that it conformed to the whole parcel and the surrounding properties. Mr. Vath said the City is concerned with the use issues. Mrs. Amlin said the church wishes to stay there. There may come a time that the land will be more valued than the building therefore when that happens to a church, it is worthwhile to move. They wish to be a "good neighbor"; they do not wish to stop the Menards deal.

Mr. Vath referred to Code §154.049-General Business, under special uses, that a church is listed and the daycare would be under "other uses determined by the Planning Board".

Mr. Charles Smith representing Chase Bank came to the podium. He said he had not been sworn in. Mr. Vath did so at that time.

Mr. Smith said their concerns were for access to the bank along Kinna Drive. Mr. Vath said the bank and the church have an agreement for a temporary ingress/egress easement. He thought access would be similar to what Fifth Third Bank has at CR25A. There could be an internal drive running north/south parallel to Kinna Drive. The access to Kinna Drive would be closer to their northern property line. Mr. Smith said he was not sure where their property line is. Mr. Vath said he could provide maps from the W. Main Street project that show where the property lines are and shows the temporary easement granted by the Church.

Mr. McFarland asked for other comments from the audience. He then **moved to close the public hearing**. Mr. Blake seconded the motion. Motion carried 5-0.

Mr. Berbach said he saw no reason not to recommend the rezoning. Mr. Springer said the CMDP is a guideline and obviously things change. Mr. Horrocks thought it was a reasonable request.

Mr. Berbach **moved to recommend to City Council a zoning map amendment for the Tipp City Church of the Nazarene, 1221 W. Main Street, Inlot 2136, ± 8.685 acres from OS Office Service to HS Highway Service**. Mr. Springer seconded the motion. Motion passed 5-0.

Mr. McFarland said City Council will make the final decision and that will determine when the Church will need to apply for a Special Use if needed.

Old Business

There was no Old Business to discuss.

Miscellaneous

City Council Reports:
February 20, 2007

Mr. Berbach attended the February 20th meeting. Council accepted the improvements as completed by the developer of Hunter's Ridge Subdivision, Section Two. They also amended the fence code for installations and maintenance. There was a first reading for the ordinance to create the new overlay district for the Legacy District.

March 5, 2007

Mr. Springer was not able to attend the March 5, 2007 Council meeting. Mr. McFarland reported that Ordinance 12-07 was adopted defining and implementing the Legacy Overlay District. Resolution 10-07 adopted the Tipp City Historic Preservation Plan.

Board member
comments

Mr. Springer asked if someone can attend the March 19th Council meeting in his absence. Mr. McFarland volunteered. Mr. Springer asked about two properties in Sycamore Woods that are in foreclosure. Mr. Vath reported that they had gone to Sheriff's Auction and had been purchased by the mortgage companies. There may be a pending sale on the Brookmere property. The Auditor's page still lists the former owner's name and City Planner Spring is unable to move forward with the nuisance complaints until those records are updated. Hopefully if the properties are purchased, then maybe they can be completed. Mr. Springer asked about the next phase of Streetscape beginning. Mr. Vath said the plans are being reviewed by the Ohio Dept. of Transportation and then out to bid with construction beginning during the summer of 2007.

Mr. Horrocks asked if there has been an assessment on the process for home-based businesses approval. Mr. Vath said he did not think there had been an assessment but the process is working well.

Mr. McFarland passed on the accolades from City Council on the Board's work on the fence code amendments. He also asked the reason for Mr. Spring's absence. Mr. Vath said Mr. Spring is working on his Master's Degree in Public Administration and he is down to his last two semesters at Wright State University. His class this semester is on Tuesday night.

Adjournment

There being no further business for discussion, Mr. Springer **moved that the meeting be adjourned**. Mr. Blake seconded the motion. The motion unanimously carried. Chairman McFarland declared the meeting adjourned at 9:39 p.m.

Michael McFarland, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary